

to step back to avoid being hit by such velocipede, and so fall into an opening negligently left without a railing near the outer line of the sidewalk, the defendant municipality was not liable for the resulting injuries.

The Supreme Court of Indiana, applying the familiar principle that a specific design or intention at the time the act of violence is done, is not a necessary element of an assault (see 4 Blackst. Comm. 182; Addison on Torts, p. 142), and that a malicious and criminal intent may be inferred from a wanton and reckless disregard of human life and safety, has held that, even in a case where a bicyclist would be justified in riding on a footpath, he is liable for an assault if he runs the bicycle recklessly against a person standing with his back to him, when, by the exercise of the slightest care, he might have passed such person without touching him. (*b*)

(*b*) *Under Statutes and Ordinances.*—But cases in which the consequences of riding or driving a vehicle on a footpath are left to be determined by common law rules must necessarily be very rare, as the matter is almost universally regulated by statutes or ordinances. (*c*) Some few of the cases relate to enactments dealing specifically with cycles, and these are, as might be expected, usually prohibitory in their terms. Under such circumstances the duty to keep off the footpaths is of course peremptory. Hence the fact that a person who is prosecuted for contravening the provisions of a statute prohibiting the use of a sidewalk by bicyclists, was riding on it with the consent of the turnpike company upon whose land it was laid, is no defence. Such a sidewalk is as much within the purview of the statute as any other, and it is not within the power of any individual or corporation to license a violation of law. (*d*) Similarly, the fact that a street is obstructed is no excuse for violating a municipal ordinance forbidding cyclists to ride upon a sidewalk, for such an ordinance leaves a bicyclist free to dismount and walk with his bicycle past the obstruction. It is error, therefore, in an action by a bicyclist for false arrest under such an ordinance, to admit evidence that he rode on the sidewalk because the street was obstructed. The consequence of the receipt of such

(*b*) *Mercer v. Corbin* (1889) 117 Ind. 450; 3 L.R.A. 221.

(*c*) By sec. 560 of the Ontario Rev. Stat., p. 2572, municipal councils are specially empowered to prohibit, by by-laws, the use of sidewalks by bicycles.

(*d*) *Commonwealth v. Forrest* (1807) 170 Pa. 40; 29 L.R.A. 365.